

Chesapeake Bay Exception CBE-12-101: 144 Macaulay Road - Cao

Staff report for the May 9, 2012 Chesapeake Bay Board Public Hearing

This staff report is prepared by James City County Engineering and Resource Protection to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant: Lan Cao/Bill Van Alstyne

Land Owner: Lan Cao/Bill Van Alstyne

Location: 144 Macaulay Road

Parcel: Lot 134, Kingsmill Subdivision

Parcel Identification: 5030200134

Lot Size: 1.43 acres

RPA Area on Lot: 0.68 acres or 49% of the lot (RPA only)

Watershed: College Creek (HUC Code JL34)

Proposed Activity: Installation of railroad tie steps, a landing for kayak (both being administrative reviews) and a retaining wall to create a landing (Chesapeake Bay Board review)

Proposed Impacts

Impervious Area: 177 square feet (approximate)

RPA Encroachment: 177 square feet to the seaward 50 foot RPA Buffer

Description of Activities

Ms. Lan Cao and Mr. Bill Van Alstyne have applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer for the construction of a small landing for their kayak and the installation of railroad ties to be used as steps and a

retaining wall to prevent erosion and provide access to Kingsmill Pond at 144 Macaulay Road within the Kingsmill Subdivision. The proposed improvements are within the seaward 50 foot RPA buffer.

The proposed railroad ties and kayak landing will be constructed along the rear of the existing residence. The proposed kayak landing will be constructed at the edge of the pond, 18" off water surface, on Kingsmill Pond in a manner to avoid impacts to the pond. The proposed railroad tie/stair installation is located from the rear of the house toward the proposed kayak landing at water's edge.

Background of Parcel

Based on staff review of County records, the lot was recorded in March 2004, the combination of two previously recorded lots, following the adoption of the revised Chesapeake Bay Preservation Ordinance. As the proposed accessory structure (landing) is located within the RPA buffer, it cannot be administratively reviewed therefore in accordance with section 23-14 of the Ordinance an exception request must be considered by the Chesapeake Bay Board following public hearing under the formal exception process. The exception request before the Board and decision to approve or deny by resolution is for an encroachment into the RPA buffer for the construction of the retaining wall that creates a kayak landing.

Water Quality Impact Assessment (WQIA)

Under Sections 23-11 and 23-14 of the County's Chesapeake Bay Preservation ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a County *Sensitive Area Activity Application* which is included in the case report packet.

The applicant proposes to provide one (1) native canopy and three (3) native shrubs to offset the impacts to the RPA, location to be field determined in coordination with division staff. The proposed mitigation meets the mitigation standard requirements for the proposed impacts.

Consideration by the Chesapeake Bay Board

The issue before the Board is the installation of the seaward retaining wall that creates a kayak landing creating approximately 177 square feet of impervious area within the seaward RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the five (5) criteria outlined in Section 23-14 (c) of the Ordinance.

The board is permitted to require reasonable and appropriate conditions in granting the exception request in accordance with Section 23-14 of the County's Chesapeake Bay Preservation ordinance.


The Board is to fully consider Chesapeake Bay Exception CBE-12-101 as outlined and presented above and review the request for exception and the water quality impact assessment. The Board may grant the exception with such conditions and safeguards as deemed necessary to further the purpose and intent of the County's Chapter 23 Chesapeake Bay Preservation Ordinance. Resolutions for granting approval or denial of Chesapeake Bay Exception CBE-12-101 are included for the Board's use and decision.

Staff Recommendations


Staff recommends **approval** of the application with the incorporation of the following conditions into the approval:

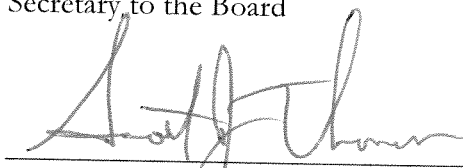
1. The applicant must obtain all other necessary local permits as required for the project, including a building permit if the retaining wall is over two feet tall.
2. Mitigation plantings shall meet James City County standards, shall be guaranteed with a \$250 surety satisfactory to the County Attorney and the provisions of the Ordinance contained in Sections 23-10(3) (d) and 23-17(c).
3. This exception request approval shall become null and void if construction has not begun by May 9, 2013.
4. Written requests for an extension to an exception shall be submitted to the Engineering and Resource Protection Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:


Tina Creech
Senior Resource Protection Inspector

CONCUR:


Michael D. Woolson
Secretary to the Board


Scott J. Thomas, Director
Engineering and Resource Protection

Attachments: Sensitive Area Activity Application

Exhibits:

- A- Work plan – top view
- B- Work plan – site view
- C- Step picture
- D- Retaining wall picture
- E- Plat